IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

WP(C).No. 21389 of 2007(U)

PETITIONER:

MR.KRISHNAN KUMAR.K.,
S/O.K.KUNJU KRISHNA PILLAI, AGED 37 YEARS,
RESIDING AT 'KRISHNALAYAM', MANAKKAD P.O.,
THODUPUZHA.

BY ADV. SRI.C.UNNIKRISHNAN (KOLLAM)
SRI.S.HARIKRISHNAN

RESPONDENTS:

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1. STATE OF KERALA REP.BY THE SECRETARY
TO GOVT. LOCAL SELF GOVT. SECRETARIAT,
THIRUVANANTHAPURAM.

2. THE DIRECTOR OF URBAN AFFAIRS,
THIRUVANANTHAPURAM.

3. THE KERALA PUBLIC SERVICE COMMISSION
REP.BY ITS SECRETARY, THIRUVANANTHAPURAM.

BY ADV. SRI.P.C.SASIDHARAN, SC, KPSC
GOVERNMENT PLEADER SRI. BIJOY CHANDRAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.

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W.P.(C) No. 21389 OF 2007 U
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Dated this the 20th August, 2007

J U D G M E N T

Petitioner was an applicant for the post of Assistant Engineers in the Municipal Common Service and was included in the rank list which was published on 27-6-2003. The issue relating to the appointment from the list was the subject matter of W.A. No. 2615 of 2005 and connected matters which were disposed of by Ext. P2 judgment. In Ext. P2 judgment this Court directed as follows:

> "Therefore a direction is issued to the Director to ascertain the real strength of Assistant Engineers in Municipal Common service as on 8-8-01 and send a report to the Public Service Commission to advice candidates to the extent of 60% of the cadre strength so assessed, from out of the list in question. Thereupon the PSC shall advice that much candidates following the rules of rotation from the list prepared and published on 27-6-03 pursuant to the recruitment notified on 8-6-99 to the post of Assistant Engineers in Municipal Common Service. This exercise shall be completed by the Director, at any rate within 6 weeks from the date of receipt of a copy of the judgment. Until then the status quo as on today shall continue as to the reversions that may occur

on account of this controversy."

According to the petitioners though the list expired on 26-6-2006 the judgment was rendered on 29-9-2006 and under the judgment the respondents were directed to ascertain the real strength of Assistant Engineers as on 8-8-2001 and send a report to the PSC to advise candidates from out of the list in which he was included to the quota earmarked.

2. The present complaint is that after the judgment was rendered no vacancy has been reported as directed in the judgment. It is also contended that from out of the 19 vacancies which were reported, there were 7 NJD vacancies and irrespective of the expiry of that list these 7 vacancies also ought to have been filled up from the list and candidates advised from the list which has expired on 26-6-2006.

3. I have considered these submissions. The first contention in the writ petition is regarding the non-implementation of the direction issued in Ext. P2 judgment. According to him, subsequent to Ext. P2 judgment, the cadre strength was not assessed, nor were the vacancies earmarked to 60% quota reported to the

PSC. This is a complaint which pertains to the implementation of the judgment and if the petitioner who was also a party to the judgment, is aggrieved by the same, the remedy available to the petitioner is not to file yet another writ petition, but to initiate action for disobedience of the directions in the judgment.

4. The second grievance of the petitioner is that the 7 NJD vacancies, out of the 19 vacancies which were reported to the PSC ought to have been filled up from the expired list. The counter affidavit filed by the PSC indicates that 7 NJD vacancies were reported on 7-6-2007 and as the list had already expired on 26-6-2006, candidates were not advised. I do not find any illegality in the stand of the PSC. Candidates can be advised only if the list was alive as on the date when the NJD vacancies were reported. Since the list had already expired PSC was justified in not advising the candidates after the expiry of the list.

5. Petitioner also has a complaint that 3 candidates have relinquished their rights. This has been answered by the PSC by contending that such

relinquishment is not possible after the requisition was received. This aspect is covered by the judgment in **Balakrishnan v. Public Service Commission** {1994 (1) KLT 490} that relinquishment is possible only on or before the date of receipt of requisition for advice.

The writ petition lacks merits and it is dismissed.

ANTONY DOMINIC
JUDGE

jan/-